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in the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-148

NORMAN ROTHMAN and
FABIO DOMENICO DECRISTOFARO,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR REHEARING OF AN ORDER DENYING PETITION FOR WRIT OF CERTIORARI

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MIAMI REVIEW — 371-4853 — 377-3721

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PETITION FOR REHEARING

Your petitioners respectfully urge that this Court grant a rehearing in this cause on the following grounds:

1. This Court has granted certiorari filed in behalf of the government in **Mara v. United States**, 454 F.2d 580 (7th Cir.), and **In re Dionisio**, 442 F.2d 276 (7th Cir.).

2. Those cases, in which certiorari was granted to the government, are controlling here, the only apparent distinction between those cases and your petitioners' position is that:

a) In those cases in which certiorari was granted at the request of the government, and cited on Pages 11 and 12 of your petitioners' Petition for Writ of Certiorari, the parties involved were mere witnesses and not defendants charged with crime as were your petitioners; and

b) The government petitioned for certiorari from rulings from inferior courts whose holdings were in favor of your petitioners' position.

3. A defendant in a criminal case should have at least as much consideration for review of an unfavorable decision, as does the government, especially where the defendants — petitioners here — have a stronger position than those who prevailed below in cases wherein this Court has granted review to the government.

4. **Mara v. United States** and **In re Dionisio**, supra, were orally argued before this Court on Monday, November 6, 1972. The issues involved therein are identical to the issues involved here, except for the distinction pointed out in Paragraph 2a of this Petition for Rehearing.

5. Unless this Court has adopted a double standard whereby the government receives more consideration for review of adverse rulings than do persons charged with crime whose rights are allegedly protected by Amendments 1 through 10, Constitution of the United States, this Court should grant this Petition for Rehearing.

Respectfully submitted,

NICHOLAS J. CAPUANO
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19 West Flagler Street
Miami, Florida 33130

CERTIFICATE OF SERVICE

In accordance with Rules 33 and 58, Supreme Court Rules, the undersigned attorney for the Petitioners hereby certifies that forty (40) printed copies of the above and foregoing Petition for Rehearing were furnished by air mail, by depositing same in the United States Post Office, with first class postage prepaid, addressed to the Honorable Michael Rodak, Jr., Clerk of the Supreme Court of the United States, Washington, D.C. 20543, and that three (3) true and correct copies of the above foregoing Petition for Rehearing were furnished in the same manner, to the Honorable Erwin N. Griswold, Solicitor General, Department of Justice, Washington, D.C. 20530, on this ____ day of November, 1972.

The undersigned further certifies that this Petition is presented in good faith and not for delay and is confined to intervening circumstances of substantial or controlling effect and previously presented.

NICHOLAS J. CAPUANO